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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Advanced Television Systems) MM Docket No. 87-268
and Their Impact Upon the)
Existing Television Broadcast)
Service)

To: The Commission

JOINT OPPOSITION TO SUPPLEMENT TO PETITION
FOR RECONSIDERATION

WRDW LICENSEE CORP.

AND

RAYCOM-U.S., INC.

WRDW LICENSEE CORPORATION

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Dated: September 23, 1997

No. of Copies rec'd 024
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**JOINT OPPOSITION TO COSMOS BROADCASTING CORPORATION'S
SUPPLEMENT TO PETITION FOR RECONSIDERATION**

WRDW Licensee Corp. ("WRDW"), licensee of WRDW-TV, Augusta, Georgia, and Raycom-U.S., Inc. ("WTOC-TV"), licensee of WTOC-TV, Savannah, Georgia, submit this opposition to Cosmos Broadcasting Corporation's request for an adjustment to the DTV Table of Allotments. WIS(TV) currently broadcasts on NTSC Channel 10 and was allotted DTV Channel 41. Cosmos requests that it be reassigned DTV Channel 11.^{1/} As Cosmos acknowledges, however, reassignment to DTV Channel 11 would cause impermissible interference with at least three NTSC facilities. There is absolutely no public-interest basis for this radical deviation from the Commission's carefully constructed DTV Table of Allotments.

^{1/} Cosmos Petition at 9-10; Supplement to Petition at 5.

The Commission's decision to adopt strict geographic spacing "provides a clear and simple measure of acceptability of an allotment proposal without the need to engage in extensive analysis of interference and has been used successfully in the television service for many years."^{2/} Accordingly, the Commission "require[s] that a party requesting a modification of the DTV Table show that such modification would not result in any new predicted interference to other DTV allotments or existing NTSC stations . . . [and] must include an engineering showing indicating that no new interference would be caused."^{3/}

The Cosmos proposal fails this test. Cosmos concedes that its requested channel reassignment from DTV channel 41 to DTV Channel 11 would be short-spaced to three NTSC stations: (1) adjacent-channel WRDW(TV) on Channel 12 in Augusta, Georgia; (2) co-channel WTOC(TV) in Savannah, Georgia, and (3) co-channel WTVD(TV) in Durham, North Carolina.

In its initial petition for DTV re-allotment, Cosmos represented that ". . . Cosmos believes that it could resolve the associated technical means [*sic*] (by adjusting power, and antenna directionality and/or height and location)."^{4/} It has evidently done none of these, at least with respect to the interference caused to the protected service areas of WRDW-TV and WTOC-TV. As figure 5 of the engineering statement accompanying the Cosmos supplement to petition for reconsideration clearly shows, there is substantial new

^{2/} *Sixth Report and Order*, 7 CR (P&F) 994 at para. 221.

^{3/} *Id.* at para. 222.

^{4/} Cosmos Petition at 9-10.

interference in WRDW DMA counties Saluda, Aiken, Barnwell and Bamberg. All told, the WIS(TV) alteration to the Commission's DTV allotments would result in interference to 5.1% of the population served by WRDW.^{5/} With respect to WTOC-TV, Figure 2 of the engineering statement shows that the Cosmos proposal would cause new interference in seven counties within the station's interference-free service area, including two counties (Hampton and Screven) that lie within the station's DMA. New interference would impact 2.4% of the population and 3.8% of the area within the station's interference-free contour.

WIS(TV) offers only two justifications for the interference that its re-allotment proposal would create for three existing NTSC stations. The first is based on self-interested economics: "... build-out expenses could be reduced by sharing equipment where possible."^{6/} There can be no question but that economies could be achieved at the expense of other stations for any number of variations in the Commission's DTV Table of Allotments. The agency worked hard to balance the coverage requirements of existing stations with the placement of new DTV facilities. The economic convenience of one existing licensee is not a public interest factor and ought not to be found a sufficient basis for creating unacceptable interference to three other stations.

The second asserted justification is the assertion that the areas in which the WIS(TV) re-allotment proposal would cause interference affect only network affiliates,

^{5/} For purposes of this Opposition only, WRDW and WTOC-TV have assumed the accuracy of the data set forth in *the Technical Exhibit* contained in Attachment C to the Supplement.

^{6/} Cosmos Petition at 10.

the network programming of which can be viewed on other area stations. Quite aside from the fact that this argument utterly neglects the availability of the substantial amounts of non-network programming (e.g., local news) offered by the affected stations, WRDW and WTOC-TV have legitimate interests in being able to reach all of the potential viewers within their protected service areas and not having significant portions of their potential viewing audiences unavailable to them by reason of interference from WIS(TV).

Instead of demonstrating, pursuant to the Commission's rules, "that no new interference would be caused" or any extraordinary circumstances to justify a reassignment, Cosmos suggests that any reassignment, to any licensee, would be justified so long as an overlapping Grade B signal, having the same network affiliation, could possibly serve at least some of the population. However, the network affiliation of one station does not excuse the short-spacing problems caused to three stations.

In its *Sixth Report and Order*, the Commission adopted a standard of DTV channel assignment that "preserve[d] both viewers' access to the existing stations in their market and stations' access to their existing populations of viewers, and thereby ensure[d] an orderly transition to DTV service for both commercial and noncommercial stations."^{2/} Assigning channel 11 to Cosmos neither preserves all viewers access to a station and their network affiliate nor ensures an orderly transition to DTV for WRDW(TV) or WTOC-TV. Instead, reassigning channel 11 to Cosmos would: (1) short-space three stations, including WRDW(TV), short-spaced by 18 kilometers and WTOC-TV, short-spaced by

^{2/} *Sixth Report and Order*, 7 CR (P&F) 994 at para. at 90.

37.4 kilometers; (2) cause new interference to three stations' populations, including at least 5.1% of the population within the coverage area of WRDW(TV) and 2.4% of the population within the coverage area of WTOC-TV; and, (3) leave viewers without access to the existing stations' programming, including their local news coverage and syndicated programming.

Allotting Channel 11 to WIS(TV) for its DTV transmissions could also have the long-term effect of interfering with WRDW's and WTOC-TV's own digital service in the event that, after the transition, they choose to move their DTV operations to their NTSC Channels (Channel 12 for WRDW(TV) and Channel 11 for WTOC-TV).^{8/} Thus, while service replication has been a consistent goal of the Commission throughout the allotment process,^{9/} WRDW(TV) and WTOC-TV may not be able to provide DTV competitively within their markets if this modification is granted.

The Commission's rules specifically provide that "[n]o petition to modify a channel allotment included in the initial DTV Table or application for authority to construct or modify a DTV station, filed pursuant to this section, will be accepted unless it shows compliance with the requirements of this paragraph." 47 C.F.R. § 73.623(c). Cosmos' petition to modify the DTV Table clearly fails to meet the requirements of the Commission's rules. Thus, for these reasons, WRDW and WTOC-TV oppose Cosmos'

^{8/} WRDW now operates on NTSC Channel 12 and is paired with DTV Channel 31; WTOC-TV now operates on NTSC Channel 11 and is paired with DTV Channel 15. Pursuant to the Commission's rules, each station could opt to return to its NTSC Channel and should not be foreclosed from doing that as a result of WIS(TV)'s proposal. See *Fifth Report and Order*, 7 CR (P&F) 863 at paras. 59-60; *Sixth Report and Order*, 7 CR(P&F) 994 at para. 3, n.3.

^{9/} *Id.* at para. 30.

petition to modify the DTV Table and submit that the Commission should not pair
Channel 11 to WIS(TV) for its DTV transmissions.

Respectfully submitted,

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Dated: September 23, 1997

DC1:58044.01